

BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)

)
) File No. AC-99-13

)
)
) GEORGE H RHODES

) OAH No. N-1999040107

) 135 Bryce Way

) Vacaville, CA 95687

)
) Certified Public Accountant

) Certificate Number 8933

) Respondent.
)
_____)

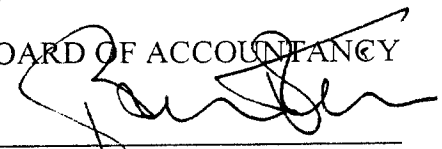
DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Accountancy as its Decision in the above-entitled matter.

This Decision shall become effective on August 26, 1999.

IT IS SO ORDERED July 27, 1999.

BOARD OF ACCOUNTANCY



Dick - President

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DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

GEORGE HANS RHODES
135 Bryce Way
Vacaville, CA 95687

Certified Public Accountant
Certificate Number 8933

Respondent.

Case No. AC-99-13

OAH No. N 1999040107

PROPOSED DECISION

Administrative Law Judge Keith A. Levy, State of California, Office of Administrative Hearings, heard this matter in Sacramento, California on May 27, 1999.

Jessica Amgwerd, Deputy Attorney General, represented complainant Carol Sigmann, Executive Officer of the California Board of Accountancy.

Respondent, George Hans Rhodes did not make an appearance and was not otherwise represented.

The matter was submitted on May 27, 1999.

FACTUAL FINDINGS

1. Complainant Carol Sigmann is the Executive Officer of the California Board of Accountancy (hereinafter "the Board") and made and filed the Accusation in her official capacity and not otherwise.

2. On May 19, 1961, the Board of Accountancy (hereinafter "the Board") issued Certified Public Accountant certificate Number 8933 to George Hans Rhodes (hereinafter

“respondent”). The certificate is subject to renewal every two years. The renewal period for this certificate is November 1 through October 31 of even-numbered years. In March 1989, the certificate was in a renewed status, without continuing education (“inactive”) through December 11, 1990. On December 12, 1990, the certificate was renewed with continuing education (“active”) through October 31, 1992, under the provisions of California Code of Regulations, Title 16, section 87.1 (“reentry”). The certificate was not valid during the period November 1, 1992, through December 9, 1992, as the renewal fee was paid; however, the declaration of compliance with continuing education was not submitted. The Board’s records reflect that the license renewal was “put on hold.” On December 10, 1992, the certificate was renewed through October 31, 1994, upon receipt of the signed declaration of compliance with continuing education requirements. The certificate expired and was not valid during the period November 1, 1994, through June 30, 1996, for the following reasons:

- (a) The renewal fee, required by Business and Professions Code 5070.5 was not paid; and
- (b) Declaration of compliance with continuing education requirements was not submitted.

3. The certificate was renewed, effective July 1, 1996, upon receipt of the renewal fee and the declaration of compliance with continuing education requirements (“active”). However, on August 1, 1996, the Board received notification from the respondent’s financial institution that the check submitted on July 1, 1996, was returned for “non-sufficient funds.” As a result, the certificate was placed in a delinquent status. The certificate was renewed current, effective October 29, 1996, through October 31, 1996, upon receipt of the renewal fee. The certificate was renewed, effective November 1, 1996 through October 31, 1998, upon receipt of the renewal fee and the declaration of compliance with continuing education requirements. The certificate is currently in full force and effect and expires subject to renewal on October 31, 2000.

4. On August 13, 1998, in the Superior Court of Washington for King County, case No. 97-1-10047-6 SEA, entitled “State of Washington v. George Hans Rhodes,” respondent was convicted on his plea of guilty to four felony counts of RCW 9A.56.030(1)(a) (theft in the 1st degree).

Respondent embezzled approximately \$30, 279 between November 16, through February 26, 1997 from the owners of Visionaries Sports and Entertainment located in Seattle, King County, Washington, by making approximately 10 checks payable to himself, forging the signature of the owner of Visionaries Sports and Entertainment on the checks, which were drawn on the Washington Mutual account of Visionaries Sports and Entertainment, and then depositing the checks into his Washington Mutual account. Respondent subsequently admitted to the owner of Visionaries Sports and Entertainment that he embezzled approximately \$25, 000.

The crime respondent was convicted of is substantially related to the qualifications, functions and duties of a certified public accountant. Respondent was working as an accountant when he embezzled the money from his client.

Respondent was sentenced to serve 60 days in the King County Jail in Seattle, Washington; ordered to serve 12 months in community supervision and to perform 30 days of community service under the supervision of the Department of Corrections upon his release from jail. Respondent was further ordered not to hold employment or any volunteer position involving the handling of money or negotiable assets without first advising his employer of his conviction for his offense. He was assessed a victim penalty of \$500.

5. Respondent has not notified the Board of his August, 1998 conviction. By letter dated June 17, 1997, respondent was notified that if he was convicted he would have to notify the Board.

LEGAL CONCLUSIONS

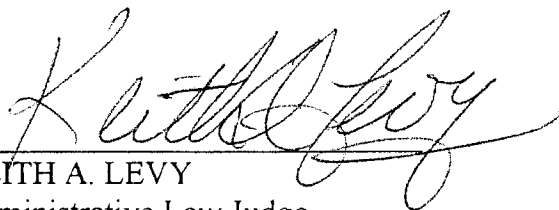
1. Cause for discipline was established based on Finding 4 pursuant to Business and Professions Code sections 5100 and 490.

2. Cause for discipline was established based on Finding 5 pursuant to Business and Professions Code section 5063(a).

ORDER

Certified Public Accountant certificate Number 8933 issued to George Hans Rhodes is revoked.

Dated: June 22, 1997


KEITH A. LEVY
Administrative Law Judge
Office of Administrative Hearings

BILL LOCKYER, Attorney General
of the State of California
ARTHUR TAGGART, State Bar No. 83047
Supervising Deputy Attorney General

Attorneys for Complainant

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BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)	No. AC-99-13
)	
GEORGE HANS RHODES)	<u>ACCUSATION</u>
135 Bryce Way)	
Vacaville, CA 95687)	
)	
Certified Public Accountant)	
Certificate Number 8933,)	
)	
Respondent.)	

Carol Sigmann, for causes for discipline, alleges:

1. Complainant Carol Sigmann is the Executive Officer of the California Board of Accountancy (hereinafter "Board") and makes and files this accusation solely in her official capacity.

LICENSE INFORMATION

2. On May 19, 1961, the Board issued Certified Public Accountant certificate Number 8933 to George Hans Rhodes (hereinafter "respondent"). The certificate is subject to renewal every two years. The renewal period for this certificate is November 1 through October 31 of even-numbered years. The Board of Accountancy's licensing records were transferred to the Department of Consumer Affairs' centralized computer system in March 1989. As a result, the underlying documentation related to the license history prior to that date is unavailable. In March 1989, the certificate was in a renewed status, without continuing

1 education ("inactive") through December 11, 1990. On December 12, 1990, the certificate was
2 renewed with continuing education ("active") through October 31, 1992, under the provisions of
3 California Code of Regulations, Title 16, section 87.1 ("reentry"). The certificate was not valid
4 during the period November 1, 1992, through December 9, 1992, as the renewal fee was paid;
5 however, the declaration of compliance with continuing education was not submitted. The
6 Board's records reflect that the license renewal was "put on hold." On December 10, 1992, the
7 certificate was renewed through October 31, 1994, upon receipt of the signed declaration of
8 compliance with continuing education requirements. The certificate expired and was not valid
9 during the period November 1, 1994, through June 30, 1996, for the following reasons:

- 10 (a) The renewal fee, required by Business and Professions Code 5070.5 was
11 not paid; and
- 12 (b) Declaration of compliance with continuing education requirements was
13 not submitted.

13 3. The certificate was renewed, effective July 1, 1996, upon receipt of the
14 renewal fee and the declaration of compliance with continuing education requirements ("active").
15 However, on August 1, 1996, the Board received notification from the respondent's financial
16 institution that the check submitted on July 1, 1996, was returned for "non-sufficient funds." As
17 a result, the certificate was placed in a delinquent status. The certificate was renewed current,
18 effective October 29, 1996, through October 31, 1996, upon receipt of the renewal fee. The
19 certificate was renewed, effective November 1, 1996, through October 31, 1998, upon receipt of
20 the renewal fee and the declaration of compliance with continuing education requirements. The
21 certificate is currently in full force and effect and expires subject to renewal on October 31, 2000.

22 STATUTES AND REGULATIONS

23 4. Business and Professions Code (hereinafter "Code") section 5100 provides, in
24 part, that the Board may revoke, suspend or refuse to renew any permit or certificate issued by
25 the Board for unprofessional conduct which includes, but is not limited to, one or any
26 combination of the following causes:

27 "(a) Conviction of any crime substantially related to the qualifications, functions
28 and duties of a certified public accountant or a public accountant."

1 “(f) Willful violation of the [Accountancy Act] or any rule or regulation
2 promulgated by the Board under the authority granted under the [Accountancy Act].”

3 5. Code section 490 provides, in pertinent part, that the Board may suspend or
4 revoke a license when it finds that the licensee has been convicted of a crime substantially related
5 to the qualifications, functions or duties of a certified public accountant.

6 6. Code section 118(b) provides, in pertinent part, that the expiration of a license
7 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during any period
8 within which the license may be renewed, restored, reissued or reinstated. Under Business and
9 Professions Code section 5070.6, the Board may renew an expired license at any time within five
10 years after its expiration.

11 7. Title 16, California Code of Regulations, section 99, provides, in pertinent
12 part, that a crime or act shall be considered to be substantially related to the qualifications,
13 functions or duties of a certified public accountant or public accountant if to a substantial degree
14 it evidences present or potential unfitness of a certified public accountant or public accountant to
15 perform the functions authorized by his certificate or permit in a manner consistent with the
16 public health, safety, or welfare. Such crimes or acts shall include but not be limited to those
17 involving the following:

18 “(a) Fiscal dishonesty or breach of fiduciary responsibility of any kind.”

19 “(c) Dishonesty, fraud, or gross negligence in the practice of public accountancy
20 or in the performance of the bookkeeping operations described in Section 5052 of the Code.”

21 8. Code section 5107 provides, in pertinent part, that the Executive Officer may
22 request the administrative law judge to direct any holder of a permit or certificate found guilty of
23 unprofessional conduct involving a felony conviction in violation of subdivision (a) of section
24 5100 to pay all reasonable costs of the investigation and enforcement of the case, including, but
25 not limited to, attorneys fees.

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1 9. Code section 5063(a) provides, in part, that a licensee shall report to the
2 Board in writing of the occurrence of any of the following events occurring on or after January 7,
3 1997, within 30 days of the date the licensee has knowledge of these events:

4 “(1) The conviction of the licensee of any of the following:

5 “(A) A felony.”

6 “(B) Any crime related to the qualifications, functions, or duties of a public
7 accountant or certified public accountant, or to acts or activities in the course and scope of the
8 practice of public accountancy.”

9 “(C) Any crime involving, theft, embezzlement, misappropriation of funds or
10 property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of
11 false, fraudulent, or materially misleading financial statements, reports, or information.”

12 **CAUSES FOR DISCIPLINE**

13 10. Respondent has subjected his license to discipline under Code section 5100(a)
14 on the grounds of unprofessional conduct in that on August 13, 1998, in the Superior Court of
15 Washington for King County, Case No. 97-1-10047-6 SEA, entitled “State of Washington v.
16 George Hans Rhodes,” respondent was convicted on his plea of guilty to four felony counts of
17 RCW 9A.56.030(1)(a) (theft in the 1st degree).

18 The circumstances surrounding the conviction are substantially related to the
19 qualifications, functions and duties of a certified public accountant or public accountant in that it
20 evidences a present or potential unfitness to perform the functions authorized by his certified
21 public accountant license in a manner consistent with the public health, safety or welfare in that
22 between November 16, 1996 through February 26, 1997, with the intent to deprive another of
23 property, respondent embezzled approximately \$30,279 from the owner of Visionaries Sports
24 and Entertainment located in Seattle, King County, Washington, by making approximately 10
25 checks payable to himself, forging the signature of the owner of Visionaries Sports and
26 Entertainment on the checks, which were drawn on the Washington Mutual account of
27 Visionaries Sports and Entertainment, and then depositing the checks into his own Washington

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1 Mutual account. Respondent subsequently admitted to the owner of Visionaries Sports and
2 Entertainment that he embezzled approximately \$25,000.

3 As a result of said crime, respondent was sentenced to serve 60 days in the King
4 County Jail in Seattle, Washington; ordered to serve 12 months in community supervision and to
5 perform 30 days of community service under the supervision of the Department of Corrections
6 upon his release from jail; ordered not to hold employment or any volunteer position involving
7 the handling of money or negotiable assets without first advising his employer of his conviction
8 for this offense, as directed by the Community Corrections Officer; ordered to have no contact
9 with Rick E. and June S. for 10 years; and ordered to pay a victim penalty assessment in the
10 amount of \$500.

11 11. Respondent has subjected his license to discipline under Code section 490 in
12 that he was convicted of a crime substantially related to the qualifications, functions or duties of
13 a certified public accountant or public accountant, as set forth in paragraph 9 above.

14 12. Respondent has subjected his license to discipline under Code section 5100(f)
15 on the grounds of unprofessional conduct in that he failed to comply with the requirement of
16 Code section 5063 by failing to notify the Board in writing, within thirty (30) days, of his
17 August 13, 1998 conviction which is set forth in paragraph 10 above.

18 **PRAYER**

19 **WHEREFORE**, complainant requests that a hearing be held and that following
20 said hearing, the Board issue a decision:

21 1. Revoking, suspending or otherwise imposing discipline upon Certified Public
22 Accountant certificate Number 8933, issued to George Hans Rhodes.

23 2. Ordering George Hans Rhodes to pay to the Board all reasonable costs of the
24 investigation and enforcement of the case, including, but not limited to, attorneys fees pursuant
25 to Business and Professions Code section 5107; and

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1 3. Taking such other and further action as the Board deems necessary and proper.

2 DATED: March 9, 1999

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4 CAROL SIGMANN
5 Executive Officer
6 Board of Accountancy
7 Department of Consumer Affairs
8 State of California

9 Complainant
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